

OPINION
50-203

February 23, 1950 (OPINION)

VILLAGES

RE: Sale of Property

Re: Sale of Village Property

Your letter of the 20th inst. has been received and referred to my desk.

You state that the American Legion Post has offered to purchase the Plaza Community Hall. You ask whether the village may sell and convey this property and, if so, what the procedure would be.

Section 40-0501(56) gives the village board authority "to convey, sell, dispose of, or lease personal and real property of the municipality as provided by this title."

It is our opinion that the village board can determine the question of whether to make the sale or not by the passage of a resolution which, of course, must be entered in full with the yea and nay vote upon the village records.

Section 40-1104 provides that "A two-thirds vote of all the members of the governing body is necessary to the sale of any property belonging to the municipality." This means a majority of all members, not merely a majority of members present.

Section 40-0106 provides that such conveyance "shall be signed by the executive and countersigned by the auditor or clerk, as the case may be, who shall affix the seal of the municipality thereto." The conveyance should be by quit claim deed, not by a warranty deed.

WALLACE E. WARNER

Attorney General